

Service. If Headquarters finds that the aggregate quantity of dutiable metal at the several plants does not equal the quantity charged against the blanket bond, duties shall be collected for the quantity determined to be deficient.

[28 FR 14763, Dec. 31, 1963, as amended by T.D. 74-247, 39 FR 34650, Sept. 27, 1974; T.D. 82-204, 47 FR 49373, Nov. 1, 1982; T.D. 84-213, 49 FR 41170, Oct. 19, 1984; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 90-78, 55 FR 40166, Oct. 2, 1990; T.D. 95-99, 60 FR 62733, Dec. 7, 1995; T.D. 99-78, 64 FR 57565, Oct. 26, 1999]

**§ 19.18 Smelting and refining; allowance for wastage; withdrawal for consumption.**

(a) Except where absolute deductions have been allowed in the liquidation of the entry for losses on copper, lead, and zinc content of metal-bearing materials, pursuant to Chapter 26, Additional U.S. Note 1, Harmonized Tariff Schedule of the United States (see § 151.55 of this chapter), the actual percentage of losses by weight shall be allowed if more than 90 percent by weight of:

(1) The zinc content initially treated at any lead plant, (2) the copper content of the imported materials treated at any zinc plant, or (3) the copper, lead, or zinc content of the imported material initially treated at any plant other than a copper, lead, or zinc plant is lost in processing such materials. Such actual percentage of losses by weight of the metal content shall be that shown by the manufacturer's annual statement. Such losses shall be applied in the liquidation of the entry to materials entered for consumption or for warehouse, during a 12-month period beginning on the first day of the month nearest to 90 days after the close of the manufacturer's fiscal year immediately preceding such 90-day period, provided the importer makes claim therefor in writing at the time the merchandise is entered. No further wastage shall be allowed. The full dutiable contents of such metal-bearing materials, as ascertained by commercial assay made by the Government chemists, less the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both), shall constitute the quantity of dutiable metal which must be either exported, duty-paid, or transferred to another

bonded warehouse in order to secure the cancellation of the charge made against the proprietor's bond as shown by the warehouse or rewarehouse entry account.

(b) Upon the withdrawal for consumption of metal so smelted or refined, or both, duty shall be collected thereon without the allowance for wastage, except where the metal was transferred to a bonded Customs warehouse other than a smelting warehouse and withdrawn therefrom for consumption. However, duty-paid warehouse withdrawals for consumption may be filed with regard to metal which will be physically withdrawn in the form of smelted or refined products whether at the time of the filing of the withdrawal papers the dutiable metal covered by the bond charge being cancelled by the withdrawal is in the form of ores, concentrates, crude metals, or intermediate products. If the warehouse withdrawal for consumption covers a product which does not sustain the full wastage allowable (see § 19.22) prior to being physically released from Customs custody, a proportionate part only of such wastage may be allowed. The warehouse withdrawal and delivery permit shall state the estimated amount of the dutiable metal contained in the products, and the warehouse withdrawal shall specify the applicable wastage. A quantity of dutiable metal equivalent to the smelted or refined products covered by each withdrawal for consumption must be actually on hand at the plant or plants covered by the bond at the time of filing the withdrawals; but neither the actual ability to withdraw smelted or refined products from the warehouse nor the actual physical condition described in the withdrawal will be required at the time of filing the withdrawal.

[28 FR 14763, Dec. 31, 1963, as amended by T.D. 73-175, 38 FR 17446, July 2, 1973; T.D. 82-90, 47 FR 20753, May 14, 1982; T.D. 89-1, 53 FR 51254, Dec. 21, 1988]

**§ 19.19 Manufacturers' records; annual statement.**

(a) Every manufacturer engaged in smelting or refining, or both, shall immediately notify the director of the port nearest which the plant is located

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of any material change in the character of the metal-bearing materials smelted or refined and of any change in the methods of smelting or refining. Each plant for which any of the deductions provided for in Chapter 26, Additional U.S. Note 1, Harmonized Tariff Schedule of the United States, is to be claimed shall maintain complete smelting and refining records showing the receipts and disposition of each shipment of materials received in the plant. If losses are to be claimed under paragraph (c) of said headnote, a record shall be kept which will become a part of the annual statement described in paragraph (b) of this section. These records shall be retained for a period of not less than 5 years. In the case of records forming the basis of such an annual statement, the period for retention shall run from the date of the related annual statement. All such records shall be made available to the port director for such inspection and verification as he may deem advisable.

(b) Every manufacturer engaged in smelting or refining, or both, must prepare and submit to the port director at the port nearest which the plant is located an annual statement for the fiscal year for the plant involved not later than 60 days after the termination of that fiscal year. The annual statement for the smelting or refining warehouse or both, shall be in lieu of the warehouse proprietors submission required by § 19.12. No specific form is prescribed in which such statement shall be prepared. As basic information, the statement shall show the quantities of metal-bearing materials on hand at the beginning of the period and the dutiable contents thereof; the quantities of metal-bearing materials received during the period and the dutiable contents thereof; the total metal-bearing materials to be accounted for and the dutiable contents thereof; the quantities of metal-bearing materials on hand at the end of the period and the dutiable contents thereof; and the quantities of metal-bearing materials worked during the period and the dutiable contents thereof. The statement of the quantity of metal-bearing materials worked during the period shall show the quantity of foreign material and the quantity of do-

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mestic material put in process during the smelting operations. The statement shall contain such further information concerning the quantities and kinds of metals and intermediary products produced at the plant as will show the wastage sustained in the smelting and refining operation.

[T.D. 67-139, 32 FR 8134, June 6, 1967, as amended by T.D. 82-204, 47 FR 49374, Nov. 1, 1982; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 99-78, 64 FR 57565, Oct. 26, 1999]

### § 19.20 Withdrawal of products from bonded smelting or refining warehouses.

(a) *For exportation.* The general procedure governing warehouse withdrawals for exportation shall be followed in the case of the withdrawal for exportation of dutiable metal from a bonded smelting or refining warehouse.

(b) *For transfer to another bonded warehouse.* (1) Withdrawal for transfer to another bonded warehouse shall be at the risk and expense of the applicant, and the general regulations governing the transfer of bonded merchandise from one warehouse to another or the transfer of imported materials from a bonded storage warehouse to a bonded manufacturing warehouse shall be followed so far as applicable.

(2) In the case of transportation to another port, the transportation entry shall show the quantity of metal withdrawn the wastage applicable thereto, and the imported material from which such metal was produced, together with any dutiable metal charged on entry.

### § 19.21 Smelting and refining in separate establishments.

(a) If the operations of smelting and refining are not carried on in the same establishment, the smelted and unrefined products obtained from the smelting of imported materials in a bonded smelting warehouse may be removed therefrom for shipment to a bonded refining warehouse located at the same or another port under the general procedure for transfer from one bonded warehouse to another.

(b) When the transfer is to a bonded refining warehouse located at another port, the smelted and unrefined products or bullion obtained from the